

REMARKS

Claims 1 - 7 remain active in this application. Amendment of claims 1 and 5 has been requested to answer criticisms stated by the Examiner in the present action. Support for the amendments of the claims is found throughout the application and original claims. No new matter has been introduced into the application.

Claims 1 - 2 and 4 - 6 have again been rejected under 35 U.S.C. §102 as being anticipated by Suzuki or Redi. Claim 3 has again been rejected under 35 U.S.C. §103 as being unpatentable over Redi in view of Ito. Claim 7 has again been rejected under 35 U.S.C. §103 as being unpatentable over Redi in view of Aoki et al. All of these (repeated) grounds of rejection are respectfully traversed for the reasons of record and the further remarks below.

It has been previously pointed out that the references relied upon are of, at best, marginal relevance to the claimed subject matter. The Examiner's rationale for finding the previously submitted remarks, which are hereby fully incorporated herein by reference, to be non-persuasive is the breadth of the previously submitted amendatory language in claim 1 (and which was already present in claim 5 as originally filed) and which is considered, by the Examiner, to be overly broad. Accordingly, while it is believed that Applicant is entitled to claims of substantial breadth in the absence of more relevant art than has been adduced by the Examiner to date, in an effort to satisfy the Examiner, additional language has been requested in each of independent claims 1 and 5 to further define the optimization to be related to compensation for degradation of a communication channel due to mobile terminal motion.

More specifically, mobile terminals as generally constituted at the present time monitor the signal

quality and signal strength of at least two communication links to separate base stations and use the better or best of the monitored and available communication links. A problem arises, however, when a mobile terminal is in motion and a communication channel thus appears to be of lesser quality than may actually be the case, particularly if the motion is sufficiently rapid that timing or frequency inaccuracies occur, such as through Doppler effects due to relative motion. Most, if not all of these effects can be individually compensated by the software used to control the individual aspects of maintaining and monitoring the communication channels but the variance of these effects with speed and the speed of the mobile unit must be *a priori* known in order to compute and control the compensation.

The inventors have discovered that even an approximate knowledge of the mobile terminal speed is sufficient for an effective amount of appropriate compensation to be developed as well as to correlate the various individual degradation effects to speed. Therefore the invention provides several mechanisms, including user estimation using icons, for capturing mobile terminal speed and, since different aspects of communication channel conditions are affected differently by speed and the appropriate compensation of each aspect varies and varies differently with speed, the invention provides for the captured approximate speed information to be distributed to the various software components such that each software component can compute and apply its own compensation, as is now more clearly recited in the claims.

The prior art applied has very little, if anything, to do with such a function, as was discussed in detail in the previous, above-incorporated response: Suzuki and Redi provide a more rapid response for *switching between* communication links as speed

increases, but do not address correction or compensation of communication channel degradation due to mobile terminal speed; Ito reduces bit transmission rate with speed as the bit error rate increases due to speed but does not make any compensation of the communication channel to reduce the bit error rate; and Aoki provides for dividing a transmission between communication channels to reduce bit rate to that which can be received while not providing any compensation of the communication channel degradation. In other words, none of the references of record are directed to providing controls which optimize operational performance of a mobile terminal, as claimed, but only alter message transmission channel switching or bit transmission rates when those factors become marginal.

Therefore, it is again respectfully submitted that the grounds of rejection asserted by the Examiner are untenable and, upon reconsideration, should be withdrawn. No *prima facie* demonstration of anticipation or obviousness of any claim has been made and thus the asserted grounds of rejection are clearly seen to be in error.

In this regard, it is also respectfully submitted that the finality of the present action is clearly premature and should be withdrawn. It is axiomatic that no action can properly be made final when no *prima facie* demonstration of the propriety of any asserted ground of rejection has been made. Moreover, amendment of a claim does not admit the propriety of rejections currently applied thereto or constitute any admission that a *prima facie* demonstration has been made as to the propriety of any ground of rejection applied thereto and certainly does not carry any logical implication to that effect. Accordingly, it is respectfully requested that the finality of the present action be reconsidered and withdrawn as well and the above-requested amendment entered as a matter of right.

In any case, it is also respectfully submitted that entry of the above-requested amendments is well-justified. The requested amendments are limited to answering criticisms by the Examiner for which entry is provided under 37 C.F.R. §1.116 and certainly do not raise any new issue. Moreover, it is respectfully submitted that the requested amendments clearly place the application in condition for allowance and entry of the requested amendments is well-justified for that reason, as well.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



Marshall M. Curtis
Reg. No. 33,138

Whitham, Curtis & Christofferson, P. C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190

(703) 787-9400
Customer Number: 30743